



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 26, 1995

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR95-704

Dear Ms. Nguyen:

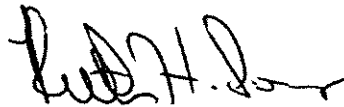
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34302.

The City of Houston (the "city") received an open records request for a copy of "the Houston Police Department's notice of indefinite suspension to [a named police officer] as well as any and all related material and documents contained in [his] appeal of his indefinite suspension." You contend that the city may withhold the requested documents pursuant to the "litigation" exception, section 552.103(a) of the Government Code, because the police officer is currently appealing his suspension under section 143.057 of the Local Government Code.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated "litigation" to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. We need not in this instance determine whether hearings before the city's Civil Service Commission constitute "litigation" for purposes of section 552.103(a). Even assuming *arguendo* that such is the case, we note that the police officer in question or his attorney received copies of all of the documents you submitted to this office for review. Absent special circumstances, once information has been obtained by all parties to the litigation, either through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Accordingly, section 552.103(a) does not protect any of the requested information. Because you have raised none of the act's other exceptions to required public disclosure, the city must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. However, in the future the city should not seek to withhold requested information under section 552.103(a) in a ruling from this office for non-confidential information where the "opposing party" has had prior access to the records at issue. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/RWP/rho

Ref.: ID# 34302

Enclosures: Submitted documents

cc: Mr. Steven L. McVicker  
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(w/o enclosures)